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Woods Oviatt Gilman LLP 700 Crossroads Bldg 2 State St. Rochester, NY 14614			EXAMINER HANSEN, JAMES ORVILLE	
			ART UNIT 3637	PAPER NUMBER
			NOTIFICATION DATE 05/13/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@woodsoviatt.com
kmcguire@woodsoviatt.com
ddanella@woodsoviatt.com

Office Action Summary	Application No. 10/554,177	Applicant(s) CLEVELAND ET AL.	
	Examiner James O. Hansen	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 22-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 20, 2009. It is noted that claims 22-31 have been cancelled.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “extrusion” [claim 17] must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New

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Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13 & 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In Claim 13, the phrase “wherein slide members are disposed” is unclear and confusing as presently set forth, since it is not clear whether this recitation is a reference back to the previously defined “a pair of opposing slide members” as outlined in intervening claim 12, or if the recitation is a new and distinct limitation in addition to the “pair of opposing slide members”. Appropriate correction / clarification is required. Consequently, claim 14 is rejected since it is dependent upon indefinite claim 13.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-8, 10 & 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schenker et al. [US Patent 6,193,340]. Schenker (figures 1-11) teaches of a multi-

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drawer file cabinet (10) comprising: a first cabinet (bottom 22) including a top surface having a peripheral edge, the edge having a first perimeter (see fig. 2 for example), the first cabinet having a drawer opening defined by an edge (see opening in fig. 5 for example); and a second cabinet (top 22) including a base, the base (30) having a sidewall (138) with a peripheral edge, the edge having a second perimeter that is larger than the first perimeter (note fig. 1 when the cabinets are joined together), wherein the sidewall fits around the edge of the top surface so that the second cabinet is positioned on top of the first cabinet (fig. 1). As to claim 2, the sidewall includes a top edge, wherein the distance between the top edge and the peripheral edge of the sidewall is equal to the distance between the peripheral edge of the top surface of the first cabinet and the edge of the drawer opening as best understood by the examiner. As to claim 3, the cabinet comprising at least one bumper (viewed as one of the “bumped-out” sections referenced as (86) in figure 4 for example) mounted to a lower surface of the base so far as broadly claimed. As to claim 4, an accessory holder (18) including a base, the base having a sidewall with a peripheral edge, the edge having a third perimeter that is larger than the second perimeter (note figs. 1-2) so that the second cabinet is positioned on top of the first cabinet (fig. 1). As to claim 5, the claim can be interpreted in one of two ways: 1) at least one of the cabinets (second cabinet) including an interior casing (the casing being defined by elements (34) when joined to the base), an upper shell portion (42) and a rear shell portion (38); or 2) at least one of the cabinets (either one) including an interior casing (26), an upper shell portion (42) and a rear shell portion (38). As to claim 6, at least the rear shell portion has at least one tab

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(78) extending from a bottom edge, and the base having at least one slot (86) defined therein for accepting the tab. As to claim 7, the upper shell portion has opposing side sections (left and right portions as shown in fig. 2) with at least one tab (78) extending from each bottom edge, wherein each of the tabs extend generally inward (via the protrusions (82)) toward the opposing side section. As to claim 8, the slot includes a fitted groove (see figures). As to claim 10, at least a portion of the casing being formed of a "fire-resistant" material [plastic] in as much as this limitation's interpretation can vary depending upon an individual's perspective of what constitutes fire resistance. As to claim 11, the claim can be interpreted in one of two ways: 1) the base includes a top surface, wherein a lip (74) extends from the top surface of the base and is capable of engaging a front side of the interior casing (such as when the parts are disassembled); or 2) the base includes a top surface, wherein a lip (74) extends from the top surface of the base to engage a front side of the interior casing (26). As to claim 12, the cabinet further includes a drawer assembly (26) {under the first interpretation} having a front drawer assembly (left of (50) in fig. 3), a frame (54's, 58), and a pair of slide members (98, 102 & 210). As to claim 13, the slide members include a pair of outer tracks (98 along with 102) in the interior casing, and a pair of drawer tracks (210) on the frame.

7. Claims 1-5 & 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Paris [US Patent 3,918,781]. Paris (figures 1-10) teaches of a multi-drawer file cabinet (fig. 10) comprising: a first cabinet (bottom 1 – fig. 1) including a top surface having a peripheral edge (viewed as the inwardly oriented top edge (2)), the edge having a first perimeter (see fig. 1 for example), the first cabinet having a drawer opening defined by

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an edge (frontal drawer opening); and a second cabinet (top 1 – fig. 1) including a base (4), the base having a sidewall (5) with a peripheral edge (outer edge of 3), the edge having a second perimeter that is larger than the first perimeter, wherein the sidewall fits around the edge of the top surface so that the second cabinet is positioned on top of the first cabinet (fig. 3). As to claim 2, the sidewall includes a top edge, wherein the distance between the top edge and the peripheral edge of the sidewall is equal to the distance between the peripheral edge of the top surface of the first cabinet and the edge of the drawer opening as best understood by the examiner. As to claim 3, the cabinet comprising at least one bumper (9) mounted to a lower surface of the base so far as broadly claimed. As to claim 4, an accessory holder (17) including a base, the base having a sidewall with a peripheral edge (18), the edge having a third perimeter that is larger than a perimeter of a top surface of the second cabinet so that the sidewall of the holder fits around the peripheral edge of the top surface of the second cabinet (fig. 10 for example). As to claim 5, the claim can be interpreted in one of two ways: 1) at least one of the cabinets (top cabinet as shown in fig. 1) including an interior casing (10), along with an upper shell portion (11) and a rear shell portion (12) so far as broadly claimed; or 2) at least one of the cabinets (bottom most cabinet) including an interior casing (19), along with an upper shell portion (upstanding side portion (21)) and a rear shell portion (rear portion (21)). As to claim 10, at least a portion of the casing being formed of a “fire-resistant” material [plastic] in as much as this limitation's interpretation can vary depending upon an individual's perspective of what constitutes fire resistance.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schenker et al., in view of Huang [US Patent 4,976,753]. Schenker teaches applicant's inventive claimed cabinet as disclosed above, but does not show holes defined in the tab and in the slot of the base for receiving a fastening mechanism. Huang (figures 1-12) is cited to show the conventional joining of two elements together via a tab with a hole (shown as 116) in conjunction with a slot and hole (shown as 120) that are couple via a fastener (126). As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Schenker so as to incorporate holes within the tab and slot elements for accepting a fastener as taught by Huang because this arrangement would provide a positive locking arrangement between the mating elements and would eliminate the risk of unintentional separation of the elements.

10. Claims 12 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paris in view of Forsgren [US Patent 5,681,102]. Paris teaches applicant's inventive claimed cabinet as disclosed above, including a drawer assembly (10) {under the second interpretation} having a front drawer assembly, and a frame (see fig. 1); but Paris does not show the drawer assembly as having a pair of slide members for moving the drawer assembly relative to the interior casing. Forsgren (figures 1-7) is cited as an

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evidence reference for the showing of a cabinet having an interior casing (1) with a drawer assembly (5) including a pair of slide members (slide rails – fig. 4) for moving the drawer assembly relative to the interior casing. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Paris so as to incorporate a pair of slide members as taught by Forsgren because this arrangement would enhance the sliding movement of Paris's drawer since the addition of the slide members would allow the drawer assembly of Paris to move linearly inwardly and outwardly with respect to the casing in a fluid and smooth motion. As to claim 13, when modified, the slide members include a pair of outer tracks (28, 28') in the interior casing, and a pair of drawer tracks (29, 29') on the frame.

11. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paris in view of Probst [US Patent 1,318,919]. Paris teaches applicant's inventive claimed cabinet as disclosed above, including a drawer assembly (10) {under the second interpretation} having a front drawer assembly, and a frame (see fig. 1); but Paris does not show the drawer assembly as having a pair of slide members for moving the drawer assembly relative to the interior casing. Probst (figures 1-5) is cited as an evidence reference for the showing of a cabinet having an interior casing (fig. 1) with a drawer assembly (3) including a pair of opposing slide members (note fig. 1) for moving the drawer assembly relative to the interior casing. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of Paris so as to incorporate a pair of slide

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members as taught by Probst because this arrangement would enhance the sliding movement of Paris's drawer since the addition of the slide members would allow the drawer assembly of Paris to move linearly inwardly and outwardly with respect to the casing in a fluid and smooth motion. As to claim 13, when modified, the slide members include a pair of outer tracks (13) in the interior casing, and a pair of drawer tracks (curved track on bottom of (4) that slides within (15)) on the frame. As to claim 14, when modified, the outer tracks each include an outer groove (15) and an inner groove (16), wherein at least one of the slide members have a stop (12) that extends into the inner groove so far as broadly claimed.

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Paris in view of Forsgren and further in view of Singh [US Patent 6,416,145]. The prior art teaches applicant's inventive claimed cabinet as disclosed above; but the combined prior art does not show the drawer tracks as having slots therein with the slide members having tabs that extend into the tracks. Singh (figures 1-8) is cited as an evidence reference for the showing of drawer tracks having slots (59) and slide members having slide tabs (31) that extend into the slots formed in the tracks. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the device of prior art so as to incorporate a locking slot and tab configuration as taught by Singh because this arrangement would enhance the versatility of the prior art's device since the slot and tab configuration would restrict lateral motion between the track and slide member if so desired by a user.

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13. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schenker et al., in view of Jones [US Patent 1,352,002]. Schenker teaches applicant's inventive claimed cabinet as disclosed above; but does not show the front drawer assembly as prescribed by applicant. Jones (figures 1-9) is cited as an evidence reference for the showing of a front drawer assembly (fig. 2) including a drawer head (10), an escutcheon plate (30), a drawer front (15) and a locking mechanism (29) wherein the head and plate are coupled with the drawer front and the locking mechanism is positioned within the plate. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the front drawer assembly of Schenker so as to incorporate the particulars as taught by Jones because this arrangement would enhance the versatility of Schenker's drawer since the incorporation of a locking mechanism and it's surrounding structural interconnection would enable a user of Schenker's cabinet to securely lock each drawer with respect to the cabinet in order to keep out unauthorized users. The locking mechanism including a cam (tumbler – pg. 2, line 26), while the drawer front would be modified to include a latching slot (37) as taught by Jones. The cam including an attaching leg, a flat portion and a locking leg (all portions of the latching member (41)) as partially depicted in figs. 7 & 8 of Jones. When modified, the drawer head would include a ledge (bottom horizontal member – fig. 2) that would be positioned below a least a portion of the cam flat portion, while the casing would entail a recess for receiving the cam locking leg.

Allowable Subject Matter

14. Pending further review and consideration, Claims 16 & 17 are objected to as being dependent upon a rejected base claim, and may be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ohnstrand and Brinker describe drawers with front drawer assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can normally be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James O. Hansen/
Primary Examiner, Art Unit 3637

JOH
May 10, 2009